Accordingly, given the practical impact of these matters, together with the substantial and legitimate interest of the public in the development and clarification of rules and procedures adopted on their behalf, there exists the requisite "public importance" in the resolution of the instant issues to satisfy the second test for overcoming "mootness".[4]

Third, the issues presented are inherently evasive of review. This conclusion, adopted by the court below as an essential element in overcoming claims of mootness or absence of a justiciable issue, derives support from the prior experience of charging parties who sought to bring the issue of their status under Section 10(l) here for review. In both the *Sears* and *The Los Angeles Herald Examiner* cases, no efforts by the charging parties to expedite proceedings at the lower judicial levels could succeed in bringing their cases to this Court prior to a "final adjudication of the Board". Nor is it likely that other charging parties will be able to do so either,—a natural and predictable consequence of the operation of a short-term order which by its nature expires too quickly to survive the steps of the appellate process.

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4. Contrary to the Director's assertions in his Memorandum, the instant case is a particularly appropriate vehicle for the exercise of this Court's jurisdiction. This case presents the question of charging parties' status under Section 10(l) in its broadest terms, seeking a determination as to whether they may function thereunder as "parties" for all purposes not reserved to the Board under the statutory scheme. An adjudication of this issue here will, therefore, necessarily also determine the narrower or more limited questions concerning charging parties' rights which were raised in the other recent cases in which this Court granted certiorari but declined to reach the merits. *Sears, Roebuck and Co., supra,* (charging parties' right to appeal adverse district court decisions); *The Los Angeles Herald Examiner, supra* (their right to seek a stay of adverse district court decisions).

A decision which would achieve so much not merely to resolve past litigation, but to avoid similar future disputes, is hardly, as the Director claims, "of no practical consequence".

In the instant case, however, unlike both *Sears* and *Herald Examiner,* there has been no "final adjudication of the Board" and, moreover, the Board has stayed its consideration of the merits of the proposed unilateral settlement of the underlying agency proceeding pending the resolution by the Eighth Circuit of other related litigation. Accordingly, this case presents better credentials for review on the merits than either *Sears* or *Herald Examiner* and does so without the potential inhibiting factor of the Board's "final adjudication". Under these circumstances, if this case is not an appropriate vehicle for review, as the Director's Memorandum claims, then it is unlikely that the merits of the recurring issues presented here will ever receive this Court's attention.

Moreover, and contrary to the Board's assertions, the efficient functioning of the judicial process requires its operation in cases in which no immediate relief is required. In such cases the law serves as an instrument of preventive justice, quieting or stabilizing uncertain and disputed relationships, securing an adjudication of competing claims, and liquidating controversies which would otherwise result in future litigation. The justiciability or "consequence" of a resolution of the issues posed in this case, which resolution would achieve these ends, can be seen by analogy to actions for declaratory judgment in which no immediate relief is required or sought but which are justiciable by virtue of the fact that such actions similarly achieve these ends.[5] The fact that in suits for declaratory judgment it is known from the outset of the litigation that affirmative relief to one of the adverse parties is unnecessary, whereas here such relief may have become unnecessary during the course of the litigation, cannot, of itself, justify treating the actions differently when they

5. *Aetna Life Insurance Co.* v. *Haworth,* 300 U. S. 227; *Public Service Commission of Utah, et al.* v. *Wycoff Co., Inc.,* 344 U. S. 237, 242-3.

otherwise contribute equally to the welfare of the parties and the development of the law.

B. REPLY TO THE UNION'S OPPOSITION.

The Union's Opposition raises a single point with which the petition itself has not already dealt. The Union argues that since Section 10(l) refers to charged labor organizations as "a party to the suit" without making a similar reference to those who file the charges, that therefore Congress intended "party" status for the former but not for the latter. This rather simplistic analysis of the Section, which fails to take account of the scheme and purpose of the Act, also constitutes a misreading of the Section itself.

The only reference in Section 10(l) to the rights which any persons involved in the suit may exercise is contained in the following sentence:

> "Upon filing of any such petition the courts shall cause notice thereof to be served upon any person involved in the charge and such person, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony."

The statute does not distinguish between either the participatory role to be played by the charging and charged parties or the nature of the rights they may respectively exercise; these are the same for "*any* persons involved in the charge." It would appear to follow, therefore, that if the one constitutes a "party" to the proceedings then so must the other. The Union's view creates an anomaly in which the possession by two persons of identical rights results in one constituting a "party" and the other not entitled even to intervene in the suit.

A reading of that portion of the Section in which labor organizations are referred to as "parties" reveals that Congress was there devoting its attention not to creating a distinction between those who charge and those who are

charged, but rather to rendering them equally subject to the jurisdiction of the courts.

In the passage quoted above, Congress provided that whenever the Board filed its petition in a district court service of notice on *all* involved parties was required. Although this requirement would give rise to no confusion with respect to the observance of settled rules governing service on individuals or corporations, no such clarity existed with respect to the appropriate manner for effecting service on labor organizations. Accordingly, Congress incorporated in Section 10(l) a series of guidelines for making such service, thereby eliminating doubt as to the means for obtaining jurisdiction over labor organizations and for making any of them "a party to the suit". Thus, Congress' use of the latter phrase, if read in context, was intended only to render unions subject to judicial process *equally* with all other "persons" involved in the charge; its use cannot reasonably be construed as intending to create a distinction between those who file charges and those against whom they are filed with respect to the affirmative rights they may exercise or the status they possess under a statutory Section which in all other respects treats them without distinction.

CONCLUSION.

For all the reasons stated in petitioners' previously filed petition, together with those supplemented herein, the Court is urged to grant the instant petition for writ of certiorari.

Respectfully submitted,

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